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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/648,979 | 08/27/2003 | William E. Fillmore | 16878-02 | 4398 |

7590 07/13/2005

H.G. Bruss, Esq., 25-LDP
Owens Illinois Inc.
One SeaGate
Toledo, OH 43666

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| EXAMINER |
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LEE, EDMUND H

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| ART UNIT | PAPER NUMBER |
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1732

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,979

Applicant(s)

FILLMORE, WILLIAM E.

Examiner

EDMUND H. LEE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8-13 and 22-28 is/are rejected.
- 7) ☒ Claim(s) 2-7,14-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 24,25,26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (USPN 5033655). Brown teaches the claimed process as evidenced by figs 14-17. It should be noted that closure 102 is inherently formed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USPN 5033655) in view of Wilde et al (USPN 4343754). In regard to claim 1, Brown teaches the basic claimed process including a method of making a dispensing closure (figs 14-17); forming a plastic closure having a base wall and a peripheral skirt with internal means for securement to a container, and forming an opening in the base wall of the plastic closure (figs 14-17)--as a note, it is inherent that closure 102 and opening 108 of Brown are formed; and compression molding a combined liner and nozzle on the plastic closure on an underside of the base wall within the skirt (figs 14-

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17)--as a note, figs 16-17 clearly illustrate the step of compression molding the combined liner and nozzle on the underside of the closure. Brown does not teach compression molding the closure. Wilde et al teach molding plastic closures by compression molding (fig 9). Brown and Wilde et al are combinable because they are analogous with respect to molding closures. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the closure of Brown by compression molding as taught by Wilde et al in order to efficiently produce a high quality closure. In regard to claims 8-10, such are taught by Brown (figs 14-17 and 28-37). In regard to claims 11-12, such are taught by Brown (figs 14-17).

5. Claims 13 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USPN 5033655) in view of Wilde et al (USPN 4343754). In regard to claim 13, Brown teaches the basic claimed process including a method of making a dispensing closure (figs 14-17); forming a plastic closure having a base wall and a peripheral skirt with internal means for securement to a container, and forming an opening in the base wall of the plastic closure (figs 14-17); and compression molding a combined liner and nozzle on the plastic closure on an underside of the base wall within the skirt (figs 14-17). Brown does not teach molding the closure. Wilde et al teach molding plastic closures by compression molding (fig 9). Brown and Wilde et al are combinable because they are analogous with respect to molding closures. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the closure of Brown by the molding process of Wilde et al in order to

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efficiently produce a high quality closure. In regard to claims 22-23, such are taught by Brown (figs 14-17 and 28-37).

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USPN 5033655) in view of Wilde et al (USPN 4343754). Brown does not teach compression molding the closure. Wilde et al teach molding plastic closures by compression molding (fig 9). Brown and Wilde et al are combinable because they are analogous with respect to molding closures. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the closure of Brown by the molding process of Wilde et al in order to efficiently produce a high quality closure.

7. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

8. Claims 2-7 and 14-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents illustrate the state of the art: USPN 6786363; USPN 6230940; USPN 5800764; and USPN 4497765.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EHL

EDMUND H. LEE
Primary Examiner
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7/11/05